

AMENDED IN ASSEMBLY APRIL 14, 2011

AMENDED IN ASSEMBLY MARCH 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 907**

---

---

**Introduced by Assembly Member Ma**

February 17, 2011

---

---

An act to amend Sections 1156.6, 1190, 1191, 1196, 1196.1, and 1196.3 of the Harbors and Navigation Code, relating to harbors and ports.

### LEGISLATIVE COUNSEL'S DIGEST

AB 907, as amended, Ma. Harbors and ports: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun: pilotage.

Existing law provides for the regulation and licensing of pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun by the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. Existing law specifies the rates of bar pilotage for vessels inward or outward bound through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun.

This bill would delete obsolete rate increases in those provisions.

Existing law requires the board to adopt a schedule of pilotage rates applicable to pilots and inland pilots for those operations that are not otherwise provided for under existing law. Existing law also requires the board to establish a surcharge for each movement of a vessel using pilot services to be used for the pilot and inland pilot continuing education program established by the board.

This bill would make those provisions inapplicable to inland pilots. The bill would also make conforming changes.

Under existing law, whenever suspected safety standard violations concerning pilot hoists, pilot ladders, or the proper rigging of pilot hoists or pilot ladders are reported to the board, the executive director is required to assign a commission investigator to personally inspect the equipment for its compliance with specified safety standards. This requirement applies to vessels in certain defined pilotage grounds.

This bill would provide that, if a vessel is expected to pass outside the pilotage grounds before the investigation, findings, and recommendations are complete, the port agent would be authorized to review the initial report of a suspected safety standard violation and any information gathered as part of the preliminary investigation. The bill would further provide that if the port agent, in his or her discretion, concludes that the ladder or hoist presents a potential danger, the agent would be ~~authorized~~ *required* to report the suspected safety standard violation to other pilot organizations.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1156.6 of the Harbors and Navigation
- 2 Code is amended to read:
- 3 1156.6. (a) Whenever suspected safety standard violations
- 4 concerning pilot hoists, pilot ladders, or the proper rigging of pilot
- 5 hoists or pilot ladders are reported to the board, the executive
- 6 director shall assign a commission investigator to personally inspect
- 7 the equipment for its compliance with the relevant safety standards
- 8 promulgated by the United States Coast Guard and the International
- 9 Maritime Organization. The commission investigator shall report
- 10 preliminary conclusions, including an assessment of the
- 11 equipment's compliance with the relevant safety standards, to the
- 12 executive director as soon as possible. If, in the preliminary report,
- 13 the equipment is found to be in violation, or in likely violation in
- 14 the opinion of the commission investigator, of the relevant safety
- 15 standards, the executive director shall immediately alert the
- 16 cognizant United States Coast Guard office. The commission
- 17 investigator shall submit a written report to the incident review
- 18 committee, as established by subdivision (a) of Section 1180.3,
- 19 and the report shall remain confidential until reported to the board.
- 20 The incident review committee, in turn, shall report its findings

1 and recommendations, if any, to the board. The board shall receive  
2 the incident review committee's findings, which may include other  
3 reports, information, or statements from interested parties. The  
4 board shall specify, by regulation, the information that shall be  
5 contained in the report.

6 (b) (1) This section applies to the pilotage grounds, as defined  
7 in Section 1114.5. Whenever a vessel passes outside of the pilotage  
8 grounds, the commission investigator's report shall include that  
9 fact along with a description of the incident.

10 (2) If a vessel is expected to pass outside of the pilotage grounds  
11 before the investigation, findings, and recommendations are  
12 complete, the port agent may review the initial report of a suspected  
13 ladder or hoist safety standard violation, and any information  
14 gathered as part of the preliminary investigation. If the port agent,  
15 in his or her discretion, concludes that the ladder or hoist presents  
16 a potential danger to future users, the port agent ~~may~~ *shall* report  
17 the suspected safety standard violation to organizations of pilots  
18 in expected next ports of call, and may similarly report to any  
19 national or international organization concerned with pilot ladder  
20 or pilot hoist safety.

21 (c) The record of the investigation and the board's findings and  
22 recommendations, if any, shall be a public record maintained by  
23 the board.

24 SEC. 2. Section 1190 of the Harbors and Navigation Code is  
25 amended to read:

26 1190. (a) Every vessel spoken inward or outward bound shall  
27 pay the following rate of bar pilotage through the Golden Gate  
28 and into or out of the Bays of San Francisco, San Pablo, and  
29 Suisun:

30 (1) Eight dollars and eleven cents (\$8.11) per draft foot of the  
31 vessel's deepest draft and fractions of a foot pro rata, and an  
32 additional charge of 73.01 mills per high gross registered ton as  
33 changed pursuant to law in effect on December 31, 1999. The mill  
34 rates established by this paragraph may be changed as follows:

35 (A) (i) On and after January 1, 2010, if the number of pilots  
36 licensed by the board is 58 or 59 pilots, the mill rate in effect on  
37 December 31, 2006, shall be decreased by an incremental amount  
38 that is proportionate to one-half of the last audited annual average  
39 net income per pilot for each pilot licensed by the board below 60  
40 pilots.

(ii) On and after January 1, 2010, if the number of pilots licensed by the board is fewer than 58 pilots, the mill rate in effect on December 31, 2006, shall be adjusted in accordance with the method described in clause (i) as though there are 58 pilots licensed by the board.

(iii) The incremental mill rate adjustment authorized by this subparagraph shall be calculated using the data reported to the board for the number of gross registered tons handled by pilots licensed under this division during the same 12-month period as the audited annual average net income per pilot. The incremental mill rate adjustment shall become effective at the beginning of the immediately following quarter, commencing January 1, April 1, July 1, or October 1, as directed by the board.

(iv) On and after January 1, 2010, if, during any quarter described in this paragraph, the number of pilots licensed by the board is equal to or greater than 60, clauses (i) to (iii), inclusive, shall become inoperative on the first day of the immediately following quarter.

(B) There shall be an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the board to recover the pilots' costs of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance. The incremental mill rate charge authorized by this subparagraph shall be identified as a pilot boat surcharge on the pilots' invoices and separately accounted for in the accounting required by Section 1136. Net proceeds from the sale of existing pilot boats shall be used to reduce the debt on the new pilot boats and any debt associated with the modification of pilot boats under this subparagraph. The board may adjust a pilot boat surcharge to reflect any associated operational savings resulting from the modification of pilot boats under this subparagraph, including, but not limited to, reduced repair and maintenance expenses.

(C) In addition to the incremental rate specified in subparagraph (B), the mill rate established by this subdivision may be adjusted at the direction of the board if, after a hearing conducted pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, the board determines that there has been a catastrophic cost increase to the

1 pilots that would result in at least a 2-percent increase in the overall  
2 annual cost of providing pilot services.

3 (2) A minimum charge for bar pilotage shall be six hundred  
4 sixty-two dollars (\$662) for each vessel piloted.

5 (3) The vessel's deepest draft shall be the maximum draft  
6 attained, on a stillwater basis, at any part of the vessel during the  
7 course of such transit inward or outward.

8 (b) The rate specified in subdivision (a) shall apply only to a  
9 pilotage that passes through the Golden Gate to or from the high  
10 seas to or from a berth within an area bounded by the Union Pacific  
11 Railroad Bridge to the north and Hunter's Point to the south. The  
12 rate for pilotage to or from the high seas to or from a point past  
13 the Union Pacific Railroad Bridge or Hunter's Point shall include  
14 a movement fee in addition to the basic bar pilotage rate as  
15 specified by the board pursuant to Section 1191.

16 (c) The rate established in paragraph (1) of subdivision (a) shall  
17 be for a trip from the high seas to dock or from the dock to high  
18 seas. The rate specified in Section 1191 shall not be charged by  
19 pilots for docking and undocking vessels.

20 (d) The board shall determine the number of pilots to be licensed  
21 based on the 1986 manpower study adopted by the board.

22 SEC. 3. Section 1191 of the Harbors and Navigation Code is  
23 amended to read:

24 1191. (a) The board, pursuant to Chapter 6 (commencing with  
25 Section 1200), shall recommend that the Legislature, by statute,  
26 adopt a schedule of pilotage rates providing fair and reasonable  
27 return to pilots engaged in ship movements or special operations  
28 where rates for those movements or operations are not specified  
29 in Section 1190.

30 (b) Every vessel using pilots for ship movements or special  
31 operations that do not constitute bar pilotage shall pay the rate  
32 specified in the schedule of pilotage rates adopted by the  
33 Legislature.

34 (c) Consistent with the board's adoption of rate  
35 recommendations in May 2002, the minimum rates imposed  
36 pursuant to this section that are in effect on December 31, 2002,  
37 shall be increased by 26 percent on January 1, 2003; those in effect  
38 on December 31, 2003, shall be increased by 26 percent on January  
39 1, 2004; those in effect on December 31, 2004, shall be increased

1 by 14 percent on January 1, 2005; and those in effect on December  
2 31, 2005, shall be increased by 14 percent on January 1, 2006.

3 SEC. 4. Section 1196 of the Harbors and Navigation Code is  
4 amended to read:

5 1196. (a) In addition to other fees for pilotage, there shall be  
6 a surcharge in an amount established by the board for each  
7 movement of a vessel using pilot services for the pilot continuing  
8 education program established by the board.

9 (b) The moneys charged and collected each month from the  
10 pilot continuing education program surcharge shall be paid to the  
11 board. The moneys shall be used only to fund the pilot continuing  
12 education program in the manner established by the board.

13 (c) By action of the board, the board may adjust the amount  
14 established pursuant to subdivision (a) as necessary to efficiently  
15 administer the pilot continuing education program.

16 SEC. 5. Section 1196.1 of the Harbors and Navigation Code  
17 is amended to read:

18 1196.1. (a) The moneys charged and collected each month  
19 from the pilot continuing education surcharge pursuant to Section  
20 1196 shall be paid to the Board of Pilot Commissioners' Special  
21 Fund pursuant to Section 1159. The moneys shall be used only to  
22 fund the pilot continuing education program referred to in  
23 subdivision (h) of Section 1171.5 and Section 1196.3.

24 (b) Information regarding moneys remitted to the Board of Pilot  
25 Commissioners' Special Fund pursuant to Section 1159 collected  
26 from the surcharge authorized pursuant to Section 1196, or  
27 otherwise collected by the board for that purpose, and information  
28 regarding moneys spent as pilot continuing education expenses  
29 authorized by Section 1196.3 shall be made available to the public  
30 upon request and to the board or its finance committee.

31 SEC. 6. Section 1196.3 of the Harbors and Navigation Code  
32 is amended to read:

33 1196.3. Pilot continuing education expenses shall include all  
34 costs incurred by the board in the operation and administration of  
35 the pilot continuing education program and all costs resulting from  
36 any contracts entered into for the purchase or lease of goods and  
37 services required by the board, including, but not limited to, the  
38 reimbursement of costs of services provided to the board by other  
39 governmental entities, and for the costs for any other goods and

- 1 services necessary for effectuating the purposes of continuing
- 2 education as determined by the board.

O